

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Philip Weiss on 01 April 2013.

The application has been amended as follows:

**Claims 1-6 were cancelled**

**Claims 9-13 were cancelled**

**Claim 15 was cancelled**

**Claims 17-22 were cancelled**

**Claim 25 was cancelled**

**Claims 36 and 37 were cancelled**

**Claim 39-42 were cancelled**

**Claims 45 and 46 were cancelled**

**Claims 48 and 49 were cancelled**

**Claims 51 and 53 were cancelled**

**Claims 71-75 were cancelled**

**Claim 56, line 3, "placing mulch" was changed to --placing a mulch--**

**Claim 56, line 17, "said mulch has" was changed to --said mulch product has--**

**Claim 63, line 3, "placing mulch" was changed to --placing a mulch product--**

**Claim 63, line 16**, "said mulch has" was changed to --said mulch product has--

**Claim 70, line 3**, "placing mulch" was changed to --placing a mulch--

**Claim 70, line 16**, "said mulch has" was changed to --said mulch product has--

***Allowable Subject Matter***

Claims 56-70 are allowed.

The following is an examiner's statement of reasons for allowance:

Cited references US Patent No. 5,105,577; US Patent No. 3,252,785; US Patent No. 3,876,411; US Patent No. 4,932,156; US Patent No. 3,645,714; US Patent No. 6,029,394; US Patent No. 4,126,417; United Kingdom Patent GB2170795A; Japanese Patent JP 06-245654; US Patent No. 6,324,781; US Patent No. 5,734,167; US Patent No. 5,387,745; US Patent No. 4,932,156; US Patent No. 6,058,647; US Patent No. 6,202,344; US Patent No. 2,526,938; US Patent No. 4,297,810; US Patent No. 4,067,140; US Patent No. 6,076,299; US Patent No. 5,697,984; US Patent No. 6,019,062; US Patent No. 5,143,023; JP 01262735 A English Translation, JP01262735A, Hisaya Yamada, Method for Adjusting the Concentration of a Hydroponic Solution, October 1989, 10 pages + title page; US Patent No. 6,021,598; US Patent No. 5,766,312; US Patent No. 3,216,802; US Patent Pub. No. 2003/0056710; US Patent No. 4,327,731; US Patent No. 5,235,781; US Patent No. 3,702,755 teach that moisture indicators are known; that it is known to apply mulch and seeds to soil surface; and that it is known to color mulch.

The prior art of record all fails to show, and fails to make obvious, either alone and/or combination a method of determining moisture content of soil and/or seed at soil surface comprising placing mulch product at surface of soil; said surface of said soil containing seed(s); determining moisture content of said surface of said soil and/or seed by color intensity of said mulch product; changing color intensity of said mulch product when moisture is removed from said mulch product; changing color intensity of said mulch product when moisture is added to said mulch product; ***adjusting moisture level of said surface of said soil and/or seed in response to said color intensity of said mulch product***; said seed consisting essentially of grass, vegetable and/or flower seed; said color coming from a pigment and/or dye in said mulch product; said mulch product comprising a fiber, cellulose, clay, loam, sand, and/or a combination of same; ***said color intensity of said mulch has a relationship to said moisture content of said surface of said soil and/or seed, indicating watering needs of said seed.***

The prior art of record does not teach the method steps of adjusting moisture level of the soil and/or seed in response to the color intensity of the mulch product.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREA VALENTI whose telephone number is

(571)272-6895. The examiner can normally be reached on 8:00am-6:30pm Mon.-Tues..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrea M. Valenti/  
Primary Examiner, Art Unit 3643

01 April 2013